

# APPENDIX D

## Coastal Commission CDP Notice of Intent to Issue Permit

2011 Batiquitos Lagoon Maintenance  
Dredging

Bidlog 2011-01

**CALIFORNIA COASTAL COMMISSION**

San Diego Coast Area Office  
7575 Metropolitan Drive, Suite 103  
San Diego, CA 92108-4402  
(619) 767-2370

Date: August 19, 2010  
Permit Application No.: 6-10-020  
Page: 1 of 7

**NOTICE OF INTENT TO ISSUE PERMIT**

(Upon satisfaction of special conditions)

**THIS IS NOT A COASTAL DEVELOPMENT PERMIT**

THE SOLE PURPOSE OF THIS NOTICE IS TO INFORM THE APPLICANT OF THE STEPS NECESSARY TO OBTAIN A VALID AND EFFECTIVE COASTAL DEVELOPMENT PERMIT ("CDP"). A Coastal Development Permit for the development described below has been approved but is not yet effective. Development on the site cannot commence until the CDP is effective. In order for the CDP to be effective, Commission staff must issue the CDP to the applicant, and the applicant must sign and return the CDP. **Commission staff cannot issue the CDP until the applicant has fulfilled each of the "prior to issuance" Special Conditions.** A list of all of the Special Conditions for this permit is attached.

The Commission's approval of the CDP is valid for two years from the date of approval. To prevent expiration of the CDP, you must fulfill the "prior to issuance" Special Conditions, obtain and sign the CDP, and commence development within two years of the approval date specified below. You may apply for an extension of the permit pursuant to the Commission's regulations at Cal. Code Regs. title 14, section 13169.

On **August 13, 2010**, the California Coastal Commission approved Coastal Development Permit No. **6-10-020**, requested by **California Department of Fish and Game** subject to the attached conditions, for development consisting of: **Maintenance dredging including removal of up to 165,000 cubic yards of beach sand from the central and western basins to be deposited on beach area south of the lagoon inlet, as well as replacement and extension of fencing around designated lagoon nesting areas E2, W1 and W2, more specifically described in the application file in the Commission offices.** **Commission staff will not issue the CDP until the "prior to issuance" special conditions have been satisfied.**

The development is within the coastal zone at **Batiquitos Lagoon** between the ocean and El Camino Real, Carlsbad, San Diego County.

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If you have any questions regarding how to fulfill the "prior to issuance" Special Conditions for CDP No. 6-10-020, please contact the Coastal Program Analyst identified below.

Sincerely,  
PETER M. DOUGLAS  
Executive Director



By: MELISSA AHRENS  
Coastal Program Analyst  
Date: August 19, 2010

**ACKNOWLEDGMENT**

The undersigned permittee acknowledges receipt of this Notice and fully understands its contents, including all conditions imposed.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Permittee

Please sign and return one copy of this form to the Commission office at the above address.

**STANDARD CONDITIONS**

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

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2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

### **SPECIAL CONDITIONS:**

The permit is subject to the following conditions:

1. **Timing of Dredging and Beach Deposition.** **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval, final plans which incorporate the following:

- a. **Public Access/Timing.** Placement of sand on Carlsbad State Beach shall occur outside of the summer season (Memorial Day weekend through Labor Day).
- b. **Sensitive Species/Timing.** To avoid potential impacts to the California least tern and western snowy plover breeding period, construction will not be permitted between the dates of March 1<sup>st</sup> to August 31<sup>st</sup> of any year.

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The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

2. Dredging Plans. Within 60 days of the dredging of the lagoon, final dredging and deposition plans shall be submitted which indicate:
  - a. The lagoon has been dredged consistent with the "as built" plans, dated 11/18/94 by the City of Carlsbad, that were approved in the Batiquitos Lagoon Enhancement Plan.
  - b. The amount of sand to be deposited on South Ponta State Beach from the Batiquitos Lagoon's western and central basins shall be limited to a volume of 118,000 cubic yards consistent with the deposition project for Batiquitos/South Ponta Beach identified in the 2001 SANDAG Regional Beach Sand Project. Prior to the commencement of any dredging operations, the applicant will submit the shoreline geometry and profiles for the proposed South Ponta Beach sand deposition for the review of the Executive Director. The height of the dredged sand mass shall not extend above the elevation of the existing adjacent roadway (Highway 101).
  - c. The Commission will consider a future proposal for dredging of the remaining 47,000 cubic yards of lagoon sand deposits only in the event that the sand is to be deposited north of the Lagoon inlet onto Carlsbad State beaches. This proposal would be processed separately as an amendment to this permit. The remaining 47,000 cubic yards of dredged sand would be placed north of the lagoon mouth in collaboration with the City of Carlsbad, the State Lands Commission and the State Department of Parks and Recreation.

3. Term of Permit/Amount of Dredging. This coastal development permit is only for a single proposal, which authorizes the dredging and disposal of up to 165,000 cu. yds. of material as approved herein. Dredging may, however, continue, outside the restricted breeding season, until this volume of material has been removed.

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### **4. Staging Areas. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT**

**PERMIT**, the applicant shall submit a revised staging plan, indicating that only two staging/dredge launch ramp areas shall be permitted within the wetland boundary: one shall be located on the E1 nesting site for launch into the eastern basin for the work on the central basin, and the second shall be located on the W2 nesting site, which will be used for launches into the western basin. All materials will be removed from the staging areas following completion of the project.

All other project staging areas, exclusive of the two approved staging/dredge launch ramp areas, shall not be allowed to occur in any environmentally sensitive land areas, including vegetated and non-vegetated wetlands and buffers, sandy beach areas, with the exception of unavoidable staging of equipment for the beach nourishment component of the project, or public parking areas.

Construction haul routes to the launch ramps for the required floating dredges shall avoid impacts to wetland areas except as necessary to access the two approved launch ramp sites. The storage of materials at the staging/launch ramp areas other than fuel for the dredge(s) shall be limited to that needed for one day's work only, and the sites shall be sized accordingly. Fuel storage at the dredge ramp sites shall be the subject of a fuel storage plan, incorporating requirements for fuel containment equipment for deployment during fueling operations, and limiting the amount of fuel and lubricants stored at each site to 150 gallons at any one time. The fuel storage plan shall be subject to the review and written approval of the Executive Director in consultation with resource agencies.

**5. Other Permits. PRIOR TO THE COMMENCEMENT OF DREDGING**, the applicant shall submit copies of all other required state or federal discretionary permits from the U.S. Fish and Wildlife Service and the Army Corps of Engineers for the proposed project. Any mitigation measures or other changes for the project required through said permits shall be reported to the Executive Director and shall become part of the project. No changes to the project shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

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6. Invasive Species. **PRIOR TO THE COMMENCEMENT OF DREDGING**, the applicant shall provide evidence that dredging of Batiquitos Lagoon can occur without the risk of spreading the invasive green alga *Caulerpa taxifolia* as follows.

- a. Not earlier than 90 days nor later than 30 days prior to commencement or re-commencement of any dredging authorized under this coastal development permit, the applicant shall undertake a survey of the project area (includes any other areas where the bottom could be disturbed by project activities) and a buffer area at least 10 meters beyond the project area to determine the presence of the invasive alga *Caulerpa taxifolia*. The survey shall include a visual examination of the substrate.
- b. The survey protocol shall be prepared in consultation with the Regional Water Quality Control Board, the California Department of Fish and Game, and the National Marine Fisheries Service.
- c. Within five (5) business days of completion of the survey, the applicant shall submit the survey:
  1. For the review and written approval of the Executive Director; and
  2. To the Surveillance Subcommittee of the Southern California Caulerpa Action Team (SCCAT). The SCCAT Surveillance Subcommittee may be contacted through William Paznokas, California Department of Fish & Game (DFG) (858-467-4218) or Robert Hoffman, National Marine Fisheries Service (NMFS) (562-980-4043).
  3. If *Caulerpa* is found, then the NMFS and DFG contacts shall be notified within 24 hours of the discovery.
- d. If *Caulerpa* is found, the applicant shall, prior to the commencement of dredging, provide evidence to the Executive Director for review and written approval either that the *Caulerpa* discovered within the project and/or buffer area has been eradicated or that the dredging project has been revised to avoid any contact with *Caulerpa*. No changes to the dredging project shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

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7. State Lands Commission Approval. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and approval of the Executive Director, either (1) approval of the proposed Batiquitos Lagoon dredging project and South Ponto Beach replenishment by the State Lands Commission, or (2) a written determination by the California State Lands Commission that no such approval is required for the project.





LOS ANGELES DISTRICT  
U.S. ARMY CORPS OF ENGINEERS

**Permittee:** Tim Dillingham, California Department of Fish and Game

**Permit Number:** 200601718-RRS

**Issuing Office:** Los Angeles District

Note: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

**Project Description:** To operate and maintain (O&M) the Batiquitos Lagoon Enhancement Project (Project) as shown on the attached drawings and subsequent drawings to be submitted for subsequent O&M work. This is a 10 year long term permit for all dredging and related work for the Project within Batiquitos Lagoon. All beach nourishment activities are limited to the North and South Ponto Beaches as shown on the attached drawings and as specified in the special conditions of this permit.

**Project Location:** In Batiquitos Lagoon and North and South Ponto Beaches in the City of Carlsbad, San Diego County, California.

**Permit Conditions:**

**General Conditions:**

1. The time limit for completing the authorized activity ends on November 7, 2016. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer,

you must obtain a modification from this permit from this office, which may require restoration of the area.

3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. A conditioned water quality certification/waste discharge requirements order has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished with the terms and conditions of your permit.

**Special Conditions:**

1. Section 10

1. The permitted activity shall not interfere with the right of the public to free navigation on all navigable waters of the United States as defined by 33 C.F.R. Part 329.
2. The Permittee shall clearly mark the limits of the workspace with flagging or similar means to ensure mechanized equipment does not enter preserved waters of the U.S. and tidal wetland/habitat areas. Adverse impacts to waters of the U.S. beyond the Corps-approved construction footprint are not authorized. Such impacts could result in permit suspension and revocation, administrative, civil or criminal penalties, and/or substantial, additional, compensatory mitigation requirements.
3. Creosote treated pilings shall not be placed in navigable waters unless all of the following conditions are met:
  - A) The project involves the repair of existing structures that were originally constructed using wood products;
  - B) The creosote treated pilings are wrapped in plastic;
  - C) Measures are taken to prevent damage to plastic wrapping from boat use. Such measures may include installation of rub strips or bumpers;
  - D) The plastic wrapping is sealed at all joints to prevent leakage; and
  - E) The plastic material is expected to maintain its integrity for at least ten years, and plastic wrappings that develop holes or leaks must be repaired or replaced in a timely manner by the Permittee.

4. No other modifications or work shall occur to any other dredging or beach nourishment areas until notification to the Corps and approval of the work is made by the Corps.

5. A pre-construction survey of the project area for *Caulerpa taxifolia* (*Caulerpa*) shall be conducted in accordance with the Caulerpa Control Protocol (see <http://swr.ucsd.edu/hcd/ccpvl.htm>) not earlier than 90 calendar days prior to planned construction and not later than 30 calendar days prior to construction unless otherwise approved by the Corps. The results of that survey shall be furnished to the Corps, NOAA Fisheries, and the California Department of Fish and Game (CDFG) at least 15 calendar days prior to initiation of work in navigable waters. In the event that *Caulerpa* is detected within the project area, the Permittee shall not commence work until such time as the infestation has been isolated, treated, and the risk of spread is eliminated as confirmed in writing by the Corps, in consultation with NOAA Fisheries and CDFG.

6. FOR DREDGED MATERIAL DISPOSAL IN WATERS OF THE US WITH THE POTENTIAL TO IMPACT EELGRASS: Once authorized impacts to navigable waters authorized by this permit have ceased, the Permittee shall conduct two years of post-construction eelgrass monitoring surveys per the mapping guidelines in NOAA Fisheries' Southern California Eelgrass Mitigation Policy (Policy) (<http://swr.nmfs.noaa.gov/hcd/eelpol.htm>). All required post-construction monitoring surveys shall be submitted by the Permittee to the Corps and NOAA Fisheries within 30 calendar days of each survey completion date. Based upon the post-construction monitoring survey results and in accordance with the Policy, the Corps will determine the need and/or amount of Essential Fish Habitat (EFH) mitigation required to offset adverse impacts to such habitat. The Corps will transmit its determination to the Permittee in writing. Within 60 calendar days of receiving the Corps' determination specifying the need and amount of mitigation, the Permittee shall submit a draft EFH mitigation plan to the Corps for review and approval. The EFH mitigation plan shall be prepared in accordance with the Policy and the Corps' Los Angeles District Mitigation Guidelines and Monitoring Requirements, dated April 19, 2004. The Permittee shall fully implement the final EFH mitigation plan as approved by the Corps.

7. FOR DREDGING PROJECTS WITH THE POTENTIAL TO IMPACT EELGRASS: Prior to each maintenance dredging event, a pre-project eelgrass survey should be conducted in accordance with the Southern California Eelgrass Mitigation Policy (SCEMP) (<http://swr.nmfs.noaa.gov/hcd/eelpol.htm>) unless otherwise approved by the Corps. If the pre-project survey demonstrates eelgrass presence within the project vicinity, a post-project survey should be conducted and impacts to eelgrass mitigated in accordance with the SEMP.

8. The Permittee shall discharge only clean construction materials suitable for use in the oceanic environment. The Permittee shall ensure no debris, soil, silt, sand, sawdust, rubbish, cement or concrete washings thereof, oil or petroleum products, from construction shall be allowed to enter into or placed where it may be washed by rainfall or runoff into waters of the United States. Upon completion of the project authorized herein, any and all excess material or debris shall be completely removed from the work area and disposed of in an appropriate upland site.

9. The Permittee shall notify the Corps of the date of commencement of operations not less than 14 calendar days prior to commencing work, and shall notify the Corps of the date of completion of operations at least five calendar days prior to such completion.

10. The Permittee shall notify the Commander, Coast Guard District, and the Coast Guard Marine Safety Office / Group San Diego, not less than 14 calendar days prior to commencing work and as project information changes. The notification, either by letter, fax, or e-mail, shall include as a minimum the following information:

- A) Project description including the type of operation (i.e. dredging, diving, construction, etc).
- B) Location of operation, including Latitude / Longitude (NAD 83).
- C) Work start and completion dates and the expected duration of operations.
- D) Vessels involved in the operation (name, size and type).
- E) VHF-FM radio frequencies monitored by vessels on scene.
- F) Point of contact and 24 hour phone number.
- G) Potential hazards to navigation.
- H) Chart number for the area of operation.

Addresses:

Commander, Coast Guard District (oan)  
Coast Guard Island, Building 50-3  
Alameda, CA 94501-5100  
ATTN: Local Notice to Mariners  
TEL: (510) 437-2986  
FAX: (510) 437-3423  
FAX: (310) 732-2029

U.S. Coast Guard  
Marine Safety Office / Group LA-LB  
1001 South Seaside Ave., Bldg 20  
San Pedro, CA 90731  
Attn: Waterways Management  
TEL: (310) 732-2020

11. The Permittee and its contractor(s) shall not remove, relocate, obstruct, willfully damage, make fast to, or interfere with any aids to navigation defined at 33 C.F.R. chapter I, subchapter C, part 66. The Permittee shall ensure its contractor notifies the Eleventh Coast Guard District in writing, with a copy to the Corps, not less than 30 calendar days in advance of operating any equipment adjacent to any aids to navigation which requires relocation or removal. Should any federal aids to navigation be affected by this project, the Permittee shall submit a request, in writing, to the Corps as well as the U.S. Coast Guard, Aids to Navigation office. The Permittee and its contractor are prohibited from relocating or removing any aids to navigation until authorized to do so by the Corps and the U.S. Coast Guard.

12. Should the Permittee determine the work requires the placement and use of private aids to navigation in navigable waters of the U.S., the Permittee shall submit a request in writing to the Corps as well as the U.S. Coast Guard, Aids to Navigation office. The Permittee is prohibited from establishing private aids to navigation in navigable waters of the U.S. until authorized to do so by the Corps and the U.S. Coast Guard.

13. Upon notification to the U.S. Coast Guard as specified in Special Condition 10, the Permittee shall forward a copy of the notification to the Coast Guard Captain of the Port (COTP). The COTP may modify the deployment of marine construction equipment or mooring systems to safeguard navigation during project construction. The Permittee shall direct

questions concerning lighting, equipment placement, and mooring to the appropriate COTP.

14. Within 30 calendar days of completion of the project authorized by this permit, the Permittee shall conduct a post-project survey indicating changes to structures and other features in navigable waters. The Permittee shall forward a copy of the survey to the Corps and to the National Oceanic and Atmospheric Service for chart updating: Gerald E Wheaton, NOAA, Regional Manager, West Coast and Pacific Ocean, DOD Center Monterey Bay, Room 5082, Seaside, CA 93955-6711.

15. The permittee understands and agrees that, if future operations by the United States require the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

Dredging:

1. For this permit, the term dredging operations shall mean: navigation of the dredging vessel at the dredging site, excavation of dredged material within the project boundaries, and placement of dredged material into a hopper dredge or disposal barge or scow.

2. Dredging authorized in this permit shall be limited to the areas defined in attached Exhibit 1. No more than 100,000 cubic yards of dredged material are authorized for dredging from Batiquitos Lagoon per year by the Permittee unless otherwise approved by the Corps. No dredging is authorized in any other location under this permit until the Corps has received a new dredging plan for subsequent maintenance cycles that shows the depth, side slopes, and disposal areas. This permit does not authorize the placement or removal of buoys.

3. For this permit, the maximum dredging design depth (also known as the project depth or grade) shall be -[8] feet below mean lower low water (MLLW), with a maximum allowable overdredge depth of -[2] feet below MLLW. No dredging shall occur deeper than -[10] feet below MLLW (dredging design depth plus overdredge depth) or outside the project boundaries unless otherwise approved by the Corps.

4. The Permittee is prohibited from dredging and disposing material in navigable waters of the U.S. that has not been tested and determined by the Corps, in consultation with the Environmental Protection Agency Region IX (EPA), to be both clean and suitable for disposal in ocean waters. Re-testing of previously tested or dredged areas is required after three years from the date of sediment sampling unless the Corps and EPA both approve otherwise. This time limit is subject to shortening given the occurrence of any event that may cause previously determined clean material to become suspect, at the discretion of the Corps. Prior to each dredging episode, the Permittee must demonstrate that the proposed dredged materials are chemically and physically suitable for disposal in ocean waters according to the provisions of the Inland Testing Manual or Ocean Disposal Manual as appropriate. If the material does not meet the physical and chemical criteria for unconfined disposal in ocean waters, the dredged

material shall be disposed in an upland disposal area as approved by the Corps. The Permittee shall submit to the Corps and EPA a sieve analysis of the material to be dredged and a draft sampling and analysis plan (SAP) if the material to be dredged is less than 90% sand. Sampling may not commence until the sieve analysis and/or the SAP is approved in writing by the Corps in consultation with EPA. If the material for any dredging and disposal work per the submitted sieve analysis is shown to be greater than or equal to 90% sand then the Corps may waive the requirement for a draft SAP.

5. At least 15 calendar days before initiation of any dredging operations authorized by this permit, the Permittee shall send a dredging and disposal operations plan to the Corps and EPA, with the following information:

- A) A list of the names, addresses and telephone numbers of the Permittee's project manager, the contractor's project manager, the dredging operations inspector, the disposal operations inspector and the captain of each tug boat, hopper dredge or other form of vehicle used to transport dredged material to the designated disposal site.
- B) A list of all vessels, major dredging equipment and electronic positioning systems or navigation equipment that will be used for dredging and disposal operations, including the capacity, load level and acceptable operating sea conditions for each hopper dredge or disposal barge or scow to assure compliance with special conditions on dredging and disposal operations.
- C) The results of a detailed analysis of all material to be dredged pursuant to an approved SAP unless waived by the Corps.
- D) A detailed description of the dredging and disposal operations authorized by this permit. Description of the dredging and disposal operations shall include, at a minimum, the following:
  - i) Dredging and disposal procedures for any dredged material determined by the Corps and EPA Region IX to be unsuitable for ocean disposal.
  - ii) Dredging and disposal procedures for [0-100,000] cubic yards to be dredged from the Permittee's work area.
  - iii) A schedule showing when the dredging project is planned to begin and end.
- E) A predredging bathymetric condition survey (presented as a large format plan view drawing), taken within thirty (30) days before the dredging begins, accurate to 0.5-foot with the exact location of all soundings clearly defined on the survey chart. The predredge survey chart shall be prepared showing the following information:
  - i) The entire dredging area, the toe and top of all side-slopes and typical cross sections of the dredging areas. To ensure that the entire area is surveyed, the predredge condition survey should cover an area at least 50 feet outside the top of the side-slope or the boundary of the dredging area, unless obstructions are encountered.
  - ii) The dredging design depth, overdredge depth and the side-slope ratio.
  - iii) The total quantity of dredged material to be removed from the dredging areas and the side-slope areas.
  - iv) Areas shallower than the dredging design depth shall be shaded green, areas between the dredging design depth and overdredge depth shall be shaded yellow, and areas below overdredge depth that will not be dredged shall be shaded blue. If these areas are not clearly shown, the Corps may request additional information.
  - v) The predredging survey chart shall be signed by the Permittee to certify that

the data are accurate and that the survey was completed within thirty (30) days before the proposed dredging start date.

F) A debris management plan to prevent disposal of large debris at all disposal locations. The debris management plan shall include: sources and expected types of debris, debris separation and retrieval methods, and debris disposal methods.

6. The Permittee shall not commence dredging operations unless and until the Permittee receives a Notice to Proceed in writing from the Corps.

7. The Permittee shall maintain a copy of this permit on all vessels used to dredge, transport and dispose of dredged material authorized under this permit.

8. The Permittee shall notify the Commander Eleventh Coast Guard District (USCG), and the Coast Guard Marine Safety Office / Sector San Diego not less than 14 calendar days prior to commencing work and as project information changes. A copy of each notification to the USCG shall be sent to the Corps for our file. The notification, either by letter, fax, or e-mail, shall include as a minimum the following information:

- A) Project description including the type of operation (i.e. dredging, diving, construction, etc).
- B) Location of operation, including Latitude / Longitude (NAD 83).
- C) Work start and completion dates and the expected duration of operations.
- D) Vessels involved in the operation (name, size and type).
- E) VHF-FM radio frequencies monitored by vessels on scene.
- F) Point of contact and 24 hour phone number.
- G) Potential hazards to navigation.
- H) Chart number for the area of operation.

Addresses:

Commander, 11th Coast Guard District (dpw)  
Coast Guard Island, Building 50-2  
Alameda, CA 94501-5100  
ATTN: Local Notice to Mariners  
TEL: (510) 437-2970, (510) 437-2986  
FAX: (510) 437-3423  
Email: [d11lnm@uscg.mil](mailto:d11lnm@uscg.mil)

U.S. Coast Guard  
Sector San Diego  
2710 N. Harbor Dr.  
San Diego, CA 92101  
Attn: Ports and Waterways Division  
TEL: (619) 278-7262  
FAX: (619) 278-7279

9. The Permittee and its contractor(s) shall not remove, relocate, obstruct, willfully damage, make fast to, or interfere with any aids to navigation defined at 33 C.F.R. chapter I, subchapter C, part 66. The Permittee shall ensure its contractor notifies the USCG in writing, with a copy to the Corps, not less than 30 calendar days in advance of operating any equipment adjacent to any aids to navigation which requires relocation or removal. Should any federal aids to navigation be affected by this project, the Permittee shall submit a request, in writing, to the Corps as well as the USCG, Aids to Navigation office. The Permittee and its contractor(s) are prohibited from relocating or removing any aids to navigation until authorized to do so by the Corps and the U.S. Coast Guard

10. Should the Permittee determine the work requires the placement and use of private aids to navigation in navigable waters of the U.S., the Permittee shall submit a request in writing to the Corps as well as the U.S. Coast Guard, Aids to Navigation office. The Permittee is prohibited from establishing private aids to navigation in navigable waters of the U.S. until authorized to do so by the Corps and the USCG.
11. The Permittee shall notify the Commander, Eleventh Coast Guard District, and the Coast Guard Marine Safety Office / Sector San Diego, not less than 14 calendar days prior to commencing work and as project information changes. The notification, either by letter, fax, or e-mail, shall include as a minimum the following information
12. The Permittee shall ensure that the captain of any hopper dredge, tug or other vessel used in the dredging and disposal operations, is a licensed operator under USCG regulations and follows the Inland and Ocean Rules of Navigation or the USCG Vessel Traffic Control Service. All such vessels, hopper dredges or disposal barges or scows, shall have the proper day shapes, operating marine band radio, and other appropriate navigational aids.
13. The Permittee's contractor(s) and the captain of any dredge covered by this permit shall monitor VHF-FM channels 13 and 16 while conducting dredging operations.
14. Upon request, the Permittee and its contractor(s) shall allow inspectors from the Corps, EPA, and(or) the USCG to inspect all phases of the dredging and disposal operations.
15. Upon request, the Permittee and its contractor(s) retained to perform work authorized by the permit or to monitor compliance with this permit shall make available to inspectors from the Corps, EPA, and(or) the USCG the following: dredging and disposal operations inspectors' logs, the vessel track plots and all disposal vessel logs or records, any analyses of the characteristics of dredged material, or any other documents related to dredging and disposal operations.
16. The permitted activity shall not interfere with the public's right to free navigation on all navigable waters of the United States.
17. If a violation of any permit condition occurs, the violation shall be reported by the Permittee to the Corps within twenty-four (24) hours. If the Permittee retains any contractors to perform any activity authorized by this permit, the Permittee shall instruct all such contractors that notice of any violations must be reported to the Permittee immediately.
18. When using a hopper dredge (may not be applicable), water flowing through the weirs shall not exceed 10 minutes during dredging operations. The level that a hopper dredge can be filled shall not exceed the load line to prevent any dredged material or water from spilling over the sides at the dredging site or during transit from the dredging site to the disposal site. No hopper dredge shall be filled above this predetermined level. Before each hopper dredge is transported to the disposal site, the dredging site inspector shall certify that it is filled correctly.
19. When using a disposal barge or scow, no water shall be allowed to flow over the sides. The level that a disposal barge or scow can be filled shall not exceed the load line to prevent any dredged material or water from spilling over the sides at the dredging site. No disposal barge



or scow shall be filled above this predetermined level. Before each disposal barge or scow is transported to the disposal site, the dredging site inspector shall certify that it is filled correctly.

20. The Permittee shall use an electronic positioning system to navigate at the dredging site unless otherwise approved by the Corps. The electronic positioning system shall have a minimum accuracy and precision of +/- 10 feet (3 meters). If the electronic positioning system fails or navigation problems are detected, all dredging operations shall cease until the failure or navigation problems are corrected. Any navigation problems and corrective measures shall be described in the post-dredging completion report per Special Condition 21.

21. The Permittee shall submit a post-dredging completion report to the Corps within 30 calendar days after completion of each dredging project to document compliance with all general and special conditions defined in this permit. The report shall include all information collected by the Permittee, the dredging operations inspector, and the disposal operations inspector or the disposal vessel captain, as required by the special conditions of this permit. The report shall indicate whether all general and special permit conditions were met. Any violations of the permit shall be explained in detail. The report shall further include the following information:

- A) Permit and project number.
- B) Start date and completion date of dredging and disposal operations.
- C) Total cubic yards disposed at the [South and North Ponto Beaches].
- D) Mode of dredging.
- E) Mode of transportation.
- F) Form of dredged material.
- G) Frequency of disposal and plots of all trips to the [North and South Ponto Beaches].
- H) Tug boat or other disposal vessel logs documenting contact with the USCG before each trip to the disposal site if applicable.
- I) Percent sand, silt and clay in dredged material.
- J) A certified report from the dredging site inspector indicating all general and special permit conditions were met. Any violations of the permit shall be explained in detail.
- K) A detailed post-dredging hydrographic survey of the dredging area unless otherwise approved by the Corps. The survey shall show areas above the dredging design depth shaded green, areas between the dredging design depth and overdredge depth shaded yellow, areas below overdredged depth that were not dredged or areas that were deeper than the overdredge depth before the project began as indicated on the predredging survey shaded blue, and areas dredged below the overdredge depth or outside the project boundaries shaded red. The methods used to prepare the post-dredging survey shall be the same methods used in the predredging condition survey. The survey shall be signed by the Permittee certifying that the data are accurate.
- L) The post-dredging report shall be signed by a duly-authorized representative of the Permittee. The Permittee's representative shall make the following certification:

*I certify under penalty of law that this document and all attachments were prepared under my direction or supervision. The information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.*

Beach Nourishment:

**Pre-discharge requirements:**

1. Discharges of fill material into waters of the U.S. authorized in this permit shall be limited to the volume and grain size distribution specified on a case-by-case basis. Non-traditional materials, such as materials derived from upland sources or materials deviating from Corps general practice (requiring beach nourishment material be at least 75% sand with no more than a 10% difference in sand content between material at the source and discharge sites), are likely to require additional, unique, site-specific testing, to be determined on a case-by-case basis, beyond traditional testing methods in order to ensure compliance with the 404(b)(1) guidelines. No discharge of fill material into waters of the U.S. is authorized for any single proposed project until the Corps has provided a Final signed notification to proceed (NTP) according to the requirements below.

A) The permittee shall submit a Sampling and Analysis Plan (SAP) per the Inland Testing Manual (ITM) for Corps and EPA approval. If the material is greater than 90% sand, the applicant shall submit a sieve analysis documenting that the material is greater than 90% sand and the Corps may waive the requirement for a draft SAP. Any required SAP will be in accordance with standard tiered testing procedures and shall include testing at the source and proposed discharge site (one of the sites approved under this permit). The SAP shall also address sieve (grain size) analysis, as well as the potential for adverse impacts involving aesthetics and compaction directly related to characteristics of the proposed source material and the receiving beach material.

B) The results of the approved SAP shall be submitted to the Corps, EPA, and the San Diego Regional Water Quality Control Board for review and approval.

2. If source material is to be dredged from outside the Batiquitos Lagoon, separate authorization under Sections 10 and/or 404 will be required.

3. Non-traditional materials (defined above) must be discharged in the surf-zone, subject to other applicable restrictions (location, timing).

4. A detailed, pre- and post-project monitoring plan shall be submitted for Corps review and approval at least 30 calendar days prior to work in waters of the U.S. No work in waters of the U.S. is authorized until the applicant receives written approval (by letter or e-mail) of the plan from the Corps. The plan shall identify monitoring protocol, reporting protocol, and contingency operations to evaluate potential changes in turbidity/sedimentation, water quality, and biology within the proposed discharge site and the adjacent offshore area. The survey shall identify and delineate habitat types, including eelgrass beds, high-relief reef and low-relief vegetated reefs (with indicator species including giant and feather boa kelp, large sea fans, sea palms, and surf-grass), immediately adjacent and downcoast of the proposed discharge, with potential to be impacted by the proposed discharge. In addition, pre-project monitoring shall include surveys to evaluate beach suitability for California grunion (*Leuresthes*

*tenuis*) activity. In the event that beach nourishment operations would extend beyond March 1 through August (the grunion spawning season), and if surveys indicate that beach conditions are found to be suitable for grunion activity or grunion activity is detected at any time, the permittee shall refrain from work and immediately notify the Corps (within 24 hours). After coordination with NOAA Fisheries, to ensure that impacts to California grunion are minimized to the greatest extent possible, the Corps may authorize the permittee to proceed.

5. A detailed sediment budget analysis will be submitted for Corps review and approval at least 30 calendar days prior to work in waters of the U.S. unless otherwise approved by the Corps. No work in waters of the U.S. is authorized until the permittee receives written approval (by letter or e-mail) of the plan from the Corps. The plan shall be based on (1) pre-project sediment budget analysis or (2) known sediment budget data for the receiving beach from a reasonably recent study. The permittee must be able to demonstrate a net loss of sediment deposition over the project area, and thus that local beach profiles reflect these conditions and show the effects of erosion.

6. A detailed description of the transport and discharge operations authorized by this permit shall be submitted to the Corps at least 30 calendar days prior to work in waters of the U.S. Description of the transport and discharge operations shall include, at a minimum, the following:

- A) Transport and discharge procedures for all sediment, including all material unsuitable for beach nourishment discharge.
- B) A schedule showing when the beach nourishment project is planned to begin and end.
- C) A debris management plan to prevent disposal of large debris at all beach discharge locations. The debris management plan shall include: sources and expected types of debris, debris separation and retrieval methods, and debris disposal methods.
- D) The plan shall include the volume of material to be excavated and discharged.
- E) The plan shall list previous discharges by site, date, and volume, as well as the total volume of material which has been excavated and discharged to date, using this Permit.

7. The Permittee shall not commence beach nourishment operations unless and until the Permittee has received the information required in Special Conditions 1 through 6 above and receives a Notice to Proceed from the Corps.

**Post-discharge special conditions:**

8. If a violation of any permit condition occurs during discharge operations, the Permittee shall report such violations to the Corps within twenty-four (24) hours after the violation occurs. If the permittee retains any contractors to perform any activity authorized by this permit or to monitor compliance with this permit, the Permittee shall instruct all such contractors that notice of any permit violations must be provided to the Permittee immediately so the Permittee can report the violation as required.

9. The permittee shall maintain a copy of this permit on all vehicles used to transport and discharge of fill material authorized under this permit.

10. The permittee shall send one (1) copy of the post-discharge report to the Los Angeles District's Regulatory Branch's San Diego Field Office documenting compliance with all general and special conditions defined in this permit. The post-discharge report shall be sent within 30 calendar days after completion of the discharge operations authorized in this permit. The report shall include:

A) All information collected by the permittee as required by the special conditions of this permit. The report shall indicate whether all general and special permit conditions were met. Any violations of the permit shall be explained in detail.

B) The post-discharge report shall include the following information:

- i) Corps permit number.
- ii) Source of material.
- iii) Total cubic yards disposed at each discharge site.
- iv) Modes of transportation and discharge.
- v) Form of discharged material and percent sand, silt and clay in the dredged material.
- vi) Actual start date and completion date of transport and discharge operations.
- vii) Monitoring results.

11. The applicant shall submit the results of post-project monitoring within 30 calendar days of the discharge. Based on pre- and post-project monitoring results, the Corps will determine the level of impact and if additional resource monitoring is warranted. If additional monitoring is required, the Corps will notify the permittee of this requirement. The permittee shall submit a supplemental monitoring plan for Corps review and approval within 30 calendar days of notification by the Corps and shall conduct the additional monitoring as approved. If the Corps determines there have been no impacts, the monitoring program may be terminated at that time. If additional monitoring is required, the conditions of the original monitoring plan will remain in effect until the supplemental plan is completed and approved by the Corps.

12. This permit does not authorize significant impacts to aquatic resources. Based on pre- and post-project monitoring results, the Corps will determine if impacts to aquatic resources have occurred and if mitigation is required. Any required mitigation shall be the responsibility of the Permittee, and failure to implement Corps-specified mitigation could result in enforcement proceedings.

13. The Permittee shall implement all appropriate, standard Best Management Practices to ensure that toxic materials, silt, debris, or excessive eroded materials do not enter waters of the U.S. due to beach nourishment operations.

14. The applicant will establish a safety flag perimeter of the beach nourishment area during disposal activities, and monitor the premises to protect the general public from construction hazards and equipment.

15. No maintenance, storage, or fueling of heavy tracked equipment or vehicles shall occur within 500 feet of the high tide line of waters of the U.S.

Section 401 water quality and Coastal Zone Consistency Conditions:

1. The applicant shall implement and abide by the General Waste Discharge Requirements (WDR) for Maintenance Dredge/Fill Projects conducted in Navigable Waters within the San Diego Region dated May 9, 1996 as prepared by the San Diego Regional Water Quality Control Board with any subsequent amendments. If the WDR expires and is renewed the applicant shall submit the new WDR to the Corps and it shall be adopted as a special condition of this 10-year permit. It is incumbent on the applicant to ensure that the WDR and/or Section 401 water quality certification does not expire, as it may make this permit null and void.
2. The applicant shall implement and abide by the California Coastal Commission (CCC) Emergency Permit (Coastal Consistency Determination/Waiver) dated October 24, 2006 with any subsequent amendments or renewals during the life of this 10 year permit. If the CCC permit expires and is renewed the applicant shall submit the new Coastal Development Permit (CDP) to the Corps and it shall be adopted as a special condition of this 10-year permit. It is incumbent on the applicant to ensure that the CDP is approved and submitted to the Corps and does not expire as it may make this 10-year permit null and void.

**Further Information:**

1. Congressional Authorities. You have been authorized to undertake the activity described above pursuant to:

(X) Section 10 of the River and Harbor Act of 1899 (33 U.S.C. 403).

(X) Section 404 of the Clean Water Act (33 U.S.C. 1344).

( ) Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

- a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.
- b. This permit does not grant any property rights or exclusive privileges.
- c. This permit does not authorize any injury to the property or rights of others.
- d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

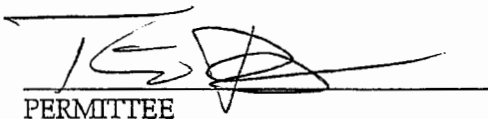
- a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

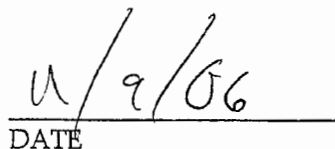
- b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
  - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
  - d. Design or construction deficiencies associated with the permitted work.
  - e. Damage claims associated with any future modification, suspension, or revocation of this permit.
4. Reliance on Applicant's Data. The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.
5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:
- a. You fail to comply with the terms and conditions of this permit.
  - b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).
  - c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measure ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

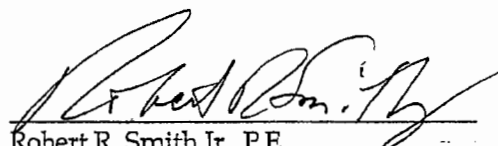
6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give you favorable consideration to a request for an extension of this time limit.

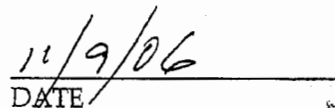
Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

  
PERMITTEE

  
DATE

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

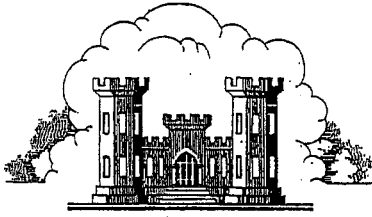
  
Robert R. Smith Jr., P.E.  
Senior Project Manager

  
DATE

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

\_\_\_\_\_  
TRANSFEEEE

\_\_\_\_\_  
DATE



LOS ANGELES DISTRICT  
U.S. ARMY CORPS OF ENGINEERS

CERTIFICATION OF COMPLIANCE WITH

Permit Number: 200601718-RRS

Name of Permittee: Tim Dillingham, California Department of Fish and Game

Date of Issuance: November 7, 2006

Upon completion of the activity authorized by this permit, sign this certification and return it to the following address:

Regulatory Branch - Los Angeles District Office  
ATTN: CESPL-CO-R-200601718-RRS  
P.O. Box 532711  
Los Angeles, California 90053-2325

Please note that your permitted activity is subject to a compliance inspection by an Army Corps of Engineers representative. If you fail to comply with this permit you may be subject to permit suspension, modification, or revocation.

I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and conditions of said permit.

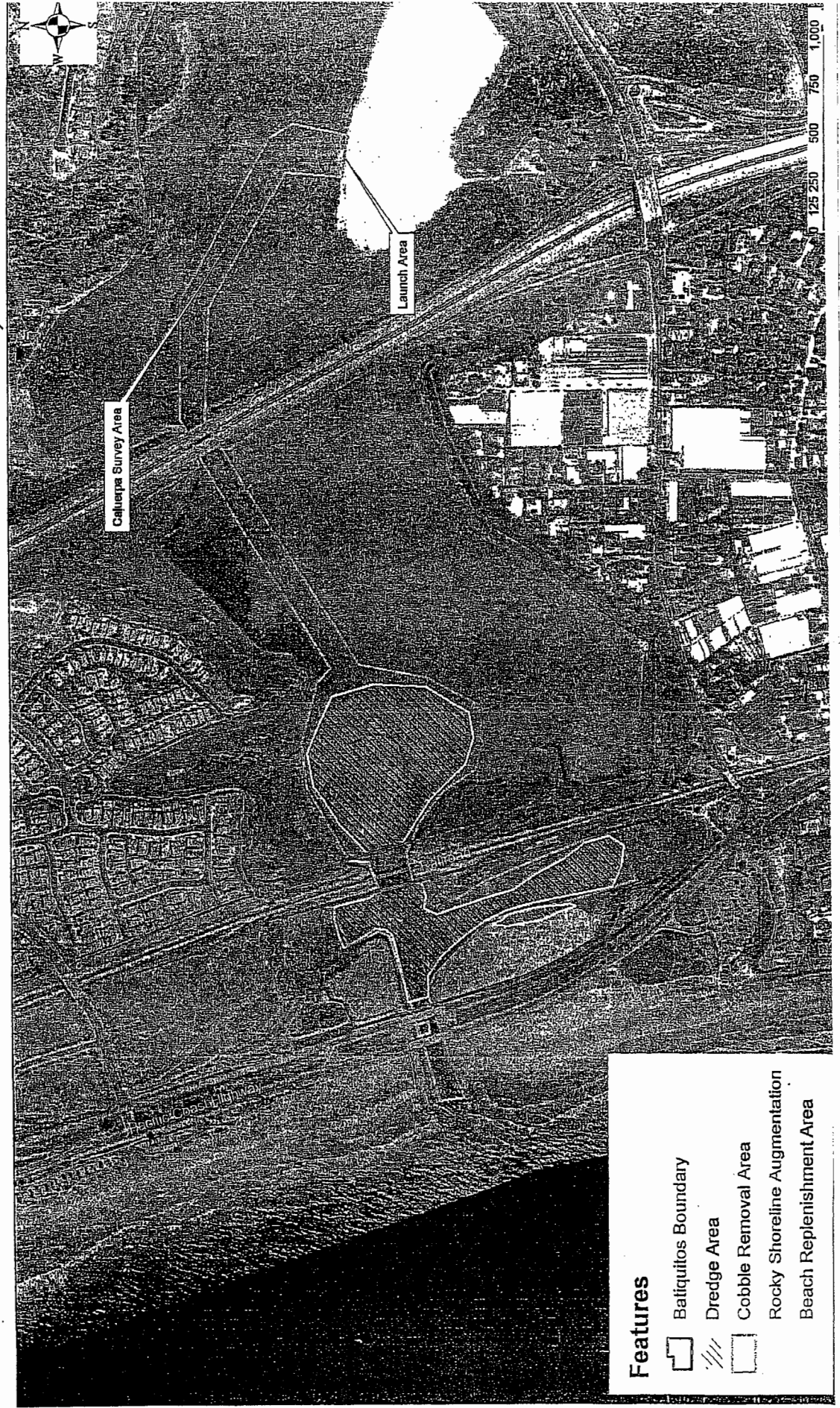
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Signature of Permittee

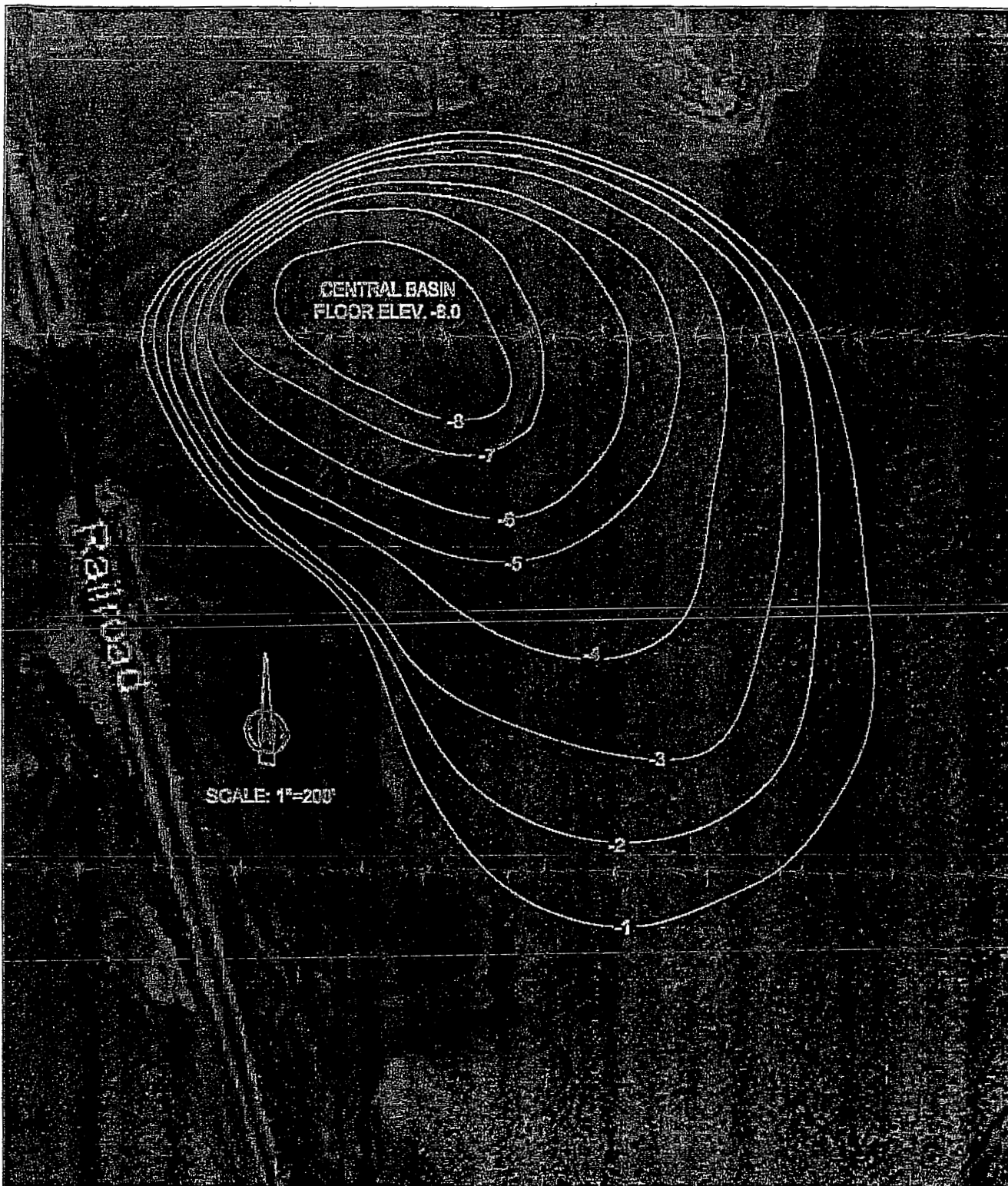
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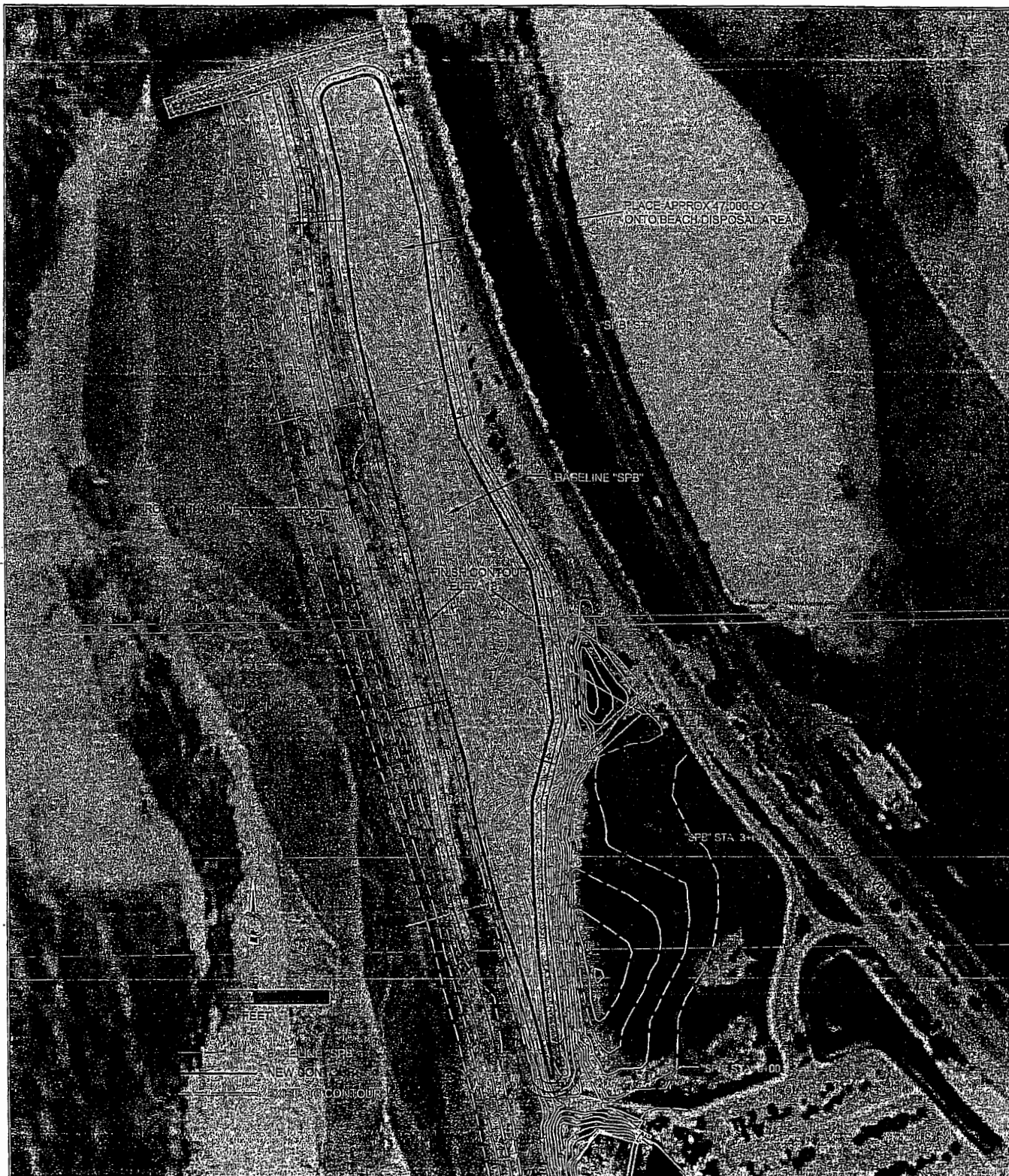
# Batiquitos Maintenance Dredging Fall 2006

Exhibit 1







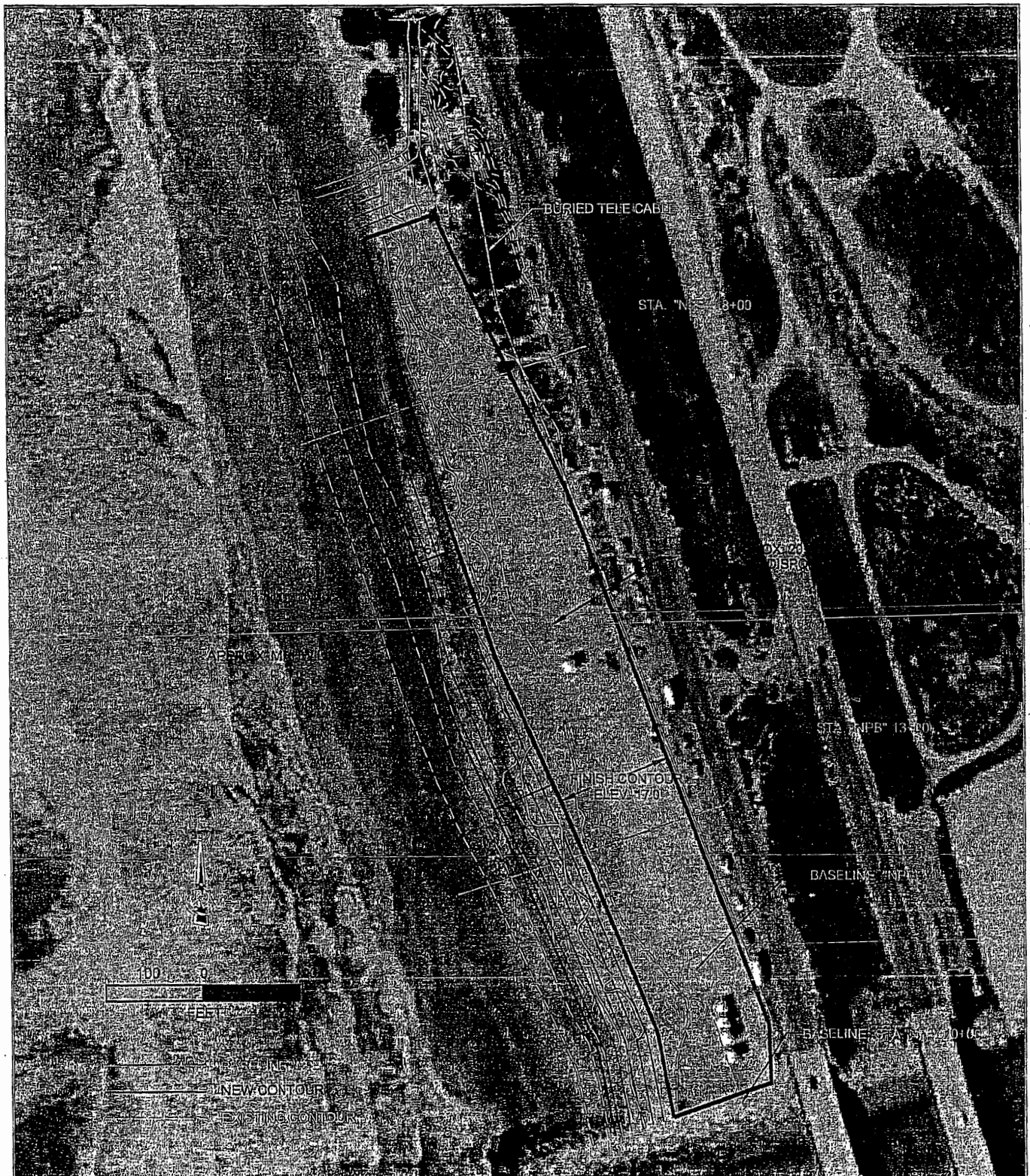


State of California  
The Resources Agency  
Department of Fish and Game  
Engineering Section

Bataquitos Lagoon Ecological Reserve  
**SOUTH PONTO BEACH PLAN**  
South Coast Region  
San Diego County

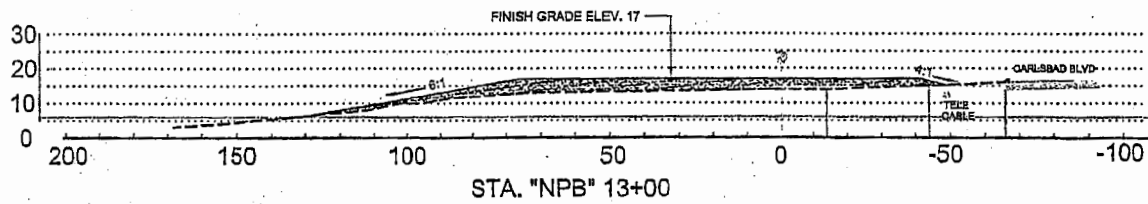
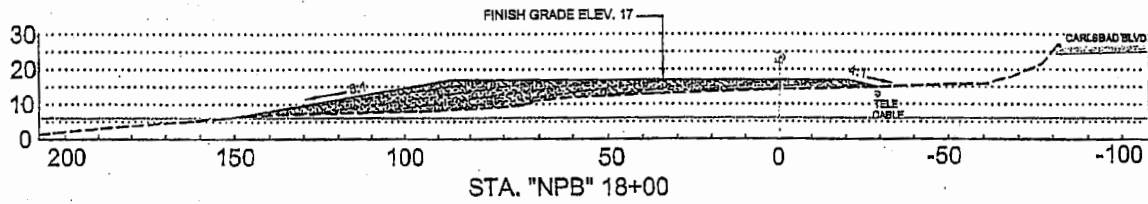
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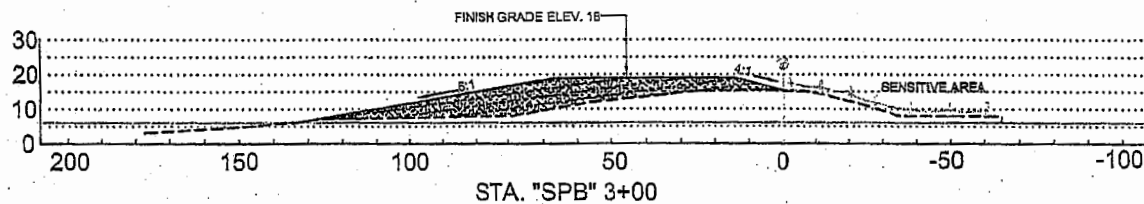
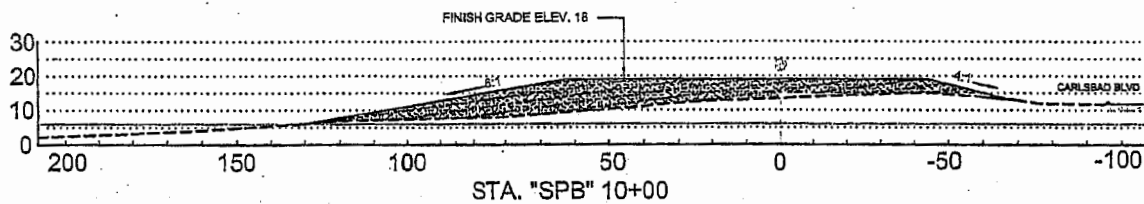
# NORTH PONTO BEACH -X SECTIONS

Scale 1" = 50' Horz/Vert



# SOUTH PONTO BEACH -X SECTIONS

Scale 1" = 50' Horz/Vert



## LEGEND:

- New Finish Grade
- Existing Ground
- ..... 5 Foot Contour
- Mean Higher High Water

15  
7.2  
130  
132 av. North  
134 av. South

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN DIEGO REGION

ORDER NO. 96-32

GENERAL WASTE DISCHARGE REQUIREMENTS  
FOR  
MAINTENANCE DREDGE/FILL PROJECTS  
CONDUCTED IN NAVIGABLE WATERS  
WITHIN THE SAN DIEGO REGION

The California Regional Water Quality Control Board, San Diego Region (hereinafter Regional Board), finds that:

1. Maintenance dredging and dredged material disposal are ongoing activities within the San Diego Region, which may adversely impact water quality. The dredging and disposal process can disturb bottom sediments leading to the release of pollutants into the water column by resuspension of contaminated sediment particle; dispersal of interstitial water in the sediment pores; and desorption of chemicals from the contaminated sediment. Common toxic constituents of many sediments include ammonia, low dissolved oxygen and hydrogen sulfide.
2. Maintenance dredge is defined as excavation and removal of accumulated sediment for maintenance of navigation channels, canals, and existing marina basins and boat slips to previously authorized depths or controlling depths for ingress/egress whichever is less, provided that the disposal of dredged sediment is in an area authorized by all applicable state and federal regulatory agencies.
3. Pursuant to California Water Code, Section 13263, this Regional Board issues waste discharge requirements for maintenance dredged and fill projects.
4. The issuing of this Order establishing general waste discharge requirements is consistent with the goal to provide water resources protection, enhancement and restoration while balancing economic and environmental impacts as stated in the Strategic Plan of the California State Water Resources Control Board and the Regional Water Quality Control Boards.
5. Bristol Cove Dredging Project, Aqua Hedionda Lagoon Dredging Project, and Oceanside Harbor-Sand Disposal Project are currently regulated by the following individual waste discharge requirements Order Nos. 75-35, 86-44, and 94-124.
6. Section 404 of the Federal Clean Water Act establishes a



federal program for regulating the discharges of dredged and fill material into waters of the United States (U.S). The Section 404 program is administered at the federal level by the U.S. Army Corps of Engineers (ACOE) and the U.S. Environmental Protection Agency (or U.S EPA). Therefore proponents of project regulated by this general permit shall obtain a 404 permit from ACOE.

7. Pursuant to Section 401 of the Clean Water Act (CWA), this Regional Board considers whether waste discharge requirements should be adopted for an activity subject to CWA Section 404, whether the adoption of waste discharge requirements should be waived, whether a certification, with or without conditions, should be issued, or whether certification should be denied. The adoption of these waste discharge requirements constitutes a waiver of water quality certification for the projects authorized under this Order pursuant to Section 401 of the Clean Water Act.
8. The adoption of general waste discharge requirements for maintenance dredging and disposal of dredged spoils projects would assist in:
  - a. Protecting the groundwaters and surface waters of the state from contamination.
  - b. Simplifying and expediting the application process for the discharger.
  - c. Reducing Regional Board time expended on preparing and considering individual waste discharge requirements for each project.
9. Maintenance dredge and fill projects include one or more of the following processes:
  - a. Dredging
  - b. Beach replenishment (onshore and offshore)
  - c. Ocean disposal
  - d. Upland disposal
10. The Basin Plan identifies the following beneficial uses of the surface waters (includes inland surface waters and marine waters - not all surface waters have all of the beneficial uses listed below) in the San Diego Region:
  - a. Municipal and domestic supply;
  - b. Agricultural supply;
  - c. Industrial service supply;

- d. Industrial process supply;
  - e. Groundwater recharge;
  - f. Freshwater replenishment;
  - g. Navigation;
  - h. Hydropower generation;
  - i. Water contact recreation;
  - j. Non-contact water recreation;
  - k. Ocean commercial and sport fishing;
  - l. Warm fresh-water habitat;
  - m. Cold fresh-water habitat;
  - n. Preservation of areas of special biological significance;
  - o. Saline water habitat;
  - p. Wildlife habitat;
  - q. Preservation of rare and endangered species;
  - r. Marine habitat;
  - s. Fish migration;
  - t. Fish spawning; and,
  - u. Shellfish harvesting.
11. The Regional Board, in establishing the requirements contained herein, considered factors including, but not limited to the following:
- (a) past, present, and probable future beneficial uses of the waters under consideration;
  - (b) environmental characteristics of the hydrographic unit under consideration, including the quality of water available thereto;
  - (c) water quality conditions that could reasonably be achieved through the coordinated control of all factors which affect water quality in the area;
  - (d) economic considerations;
  - (e) the need for developing housing within the region;
  - (f) the need to develop and use recycled water;
  - (g) beneficial uses to be protected and water quality objectives reasonably required for that purpose;
  - (h) other waste discharges; and
  - (i) the need to prevent nuisance.
12. Maintenance dredging and fill projects involve a minor alteration to land and as such is exempt from the provisions of the California Environmental Quality Act in accordance with Title 14, California Code of Regulations, Chapter 3,



Section 15304(g).

13. Pursuant to this Order, the Executive Officer will notify this Regional Board of the receipt of an application and issuance of an authorization letter at the next regularly scheduled Regional Board meeting.
14. The Regional Board has considered all water resource related environmental factors associated with the discharge of waste associated with dredge/fill projects as described in this Order.
15. The Regional Board has notified the ACOE and all other known interested parties of the intent to prescribe waste discharge requirements for dredge/fill projects as described in this Order.
16. The Regional Board in a public meeting heard and considered all comments pertaining to the proposed discharge.

IT IS HEREBY ORDERED, that each authorized discharger (hereinafter discharger) shall comply with the following:

**A. ELIGIBILITY**

1. The project proponent must submit a complete report of waste discharge (RWD) and an appropriate filing fee for each maintenance dredge and fill project. The report of waste discharge shall include the following:
  - a. The documentation shall include a requirement-by-requirement analysis based on acceptable engineering practices, of how the operation of maintenance dredged and fill project will ensure compliance with Section B and Section C of this Order.
  - b. Documentation that the ACOE has determined that the proposed project is a "maintenance project".
  - c. Documentation that the ACOE and EPA have concluded that dredged materials proposed for near-shore disposal or for beach replenishment had been tested adequately, are predominantly sand (at least 80% with a grain size of >63 micrometers), and have no significant chemical contamination and/or are free of toxicity.
  - d. Documentation that the proposed project will comply with all applicable requirements of this Order.

2. Prior to beginning any maintenance dredged and fill project, the applicant must receive an authorization letter from the Regional Board's Executive Officer which states that it is appropriate to regulate the proposed project under general waste discharge requirements, and an individual permit is not required. The authorization letter shall specify the following:
  - a. Maximum volume of sediment and location that can be dredged and disposed; and
  - b. Any modification to Monitoring and Reporting Program No. 96-32; and
  - c. Any other conditions necessary to protect the beneficial uses of the receiving water.
3. The Executive Officer may require any discharger authorized under this Order to apply for and obtain an individual waste discharge requirements with more specific requirements by notifying the discharger in writing that an individual permit application is required. The notice shall include a deadline for the discharger to file the application, an application and a fee schedule.
4. When an individual waste discharge requirements with specific requirements is issued to a discharger, the applicability of this general permit to the individual permittee shall be terminated on the effective date of the individual permit.
5. Notwithstanding the conditions specified above, individual cases may be brought to the Regional Board for consideration of waste discharge requirements when deemed appropriate by the Regional Board's Executive Officer.

**B. PROHIBITIONS**

1. Discharges of dredged material and dredge material return water in a manner and to lands which have not been specifically described in the report of waste discharge and for which valid waste discharge requirements are not in force are prohibited.
2. Dredging, storage or disposal of dredged material and return water in a manner that create a pollution, contamination or nuisance, as defined by CWC Section 13050 is prohibited.
3. Dredging, storage or disposal of dredged material and

return water in a manner that causes a violation any Basin Plan prohibition or any Basin Plan water quality objective established for San Diego Bay is prohibited. The relevant sections from the Basin Plan are contained in Attachment No. 1 to this Order.

4. The discharge of materials of petroleum origin in sufficient quantities to be visible is prohibited.

#### C. OPERATION SPECIFICATIONS

1. Sediment shall be tested according to document entitled "1991 Evaluation of Dredge Materials Proposed for Ocean Disposal" under the direction and approval of the ACOE and EPA.
2. Sediment shall be removed or disposed in a manner that will not cause significant water quality degradation. Turbidity at Stations C and E shall not increase more than 20 percent over the turbidity at Stations A and D respectively. These stations are identified in Section E.1 and G.1 of the Monitoring and Reporting Program No. 96-32.
3. If dewatering is conducted as part of the dredging, transportation or disposal projects and if the dredged sediment is not suitable for ocean disposal or beach replenishment, a sediment dispersal control device such as a double silt curtain shall be installed around any point source discharge of the return water to surface waters.
4. Sediment shall not be deposited in a location that may cause significant adverse effects to aquatic life, fish, shellfish, or wildlife or may harm the beneficial uses of the receiving waters, or does not create maximum benefit to the people of the state. Beach replenishment activities at designated grunion spawning sites during the spawning season will be suspended unless the beach replenishment activities are authorized by the Department of Fish and Game.
5. The project shall not cause significant adverse impacts upon a federal sanctuary, recreational area, or other waters of significant national importance.
6. Sediment to be used for beach replenishment shall be classified in accordance with California Code of Regulations, Title 23, Division 3, Chapter 15 (Chapter 15), Article 2. The material is classified based on its threat to water quality (TTWQ,) which is determined from results of sediment and elutriate chemical

analyses submitted in the RWD. Based on the information provided in the RWD, these materials shall be classified as inert for disposal at a site that is not regulated as a classified waste management unit.

7. The discharger shall comply with attached Monitoring and Reporting Program No. 96-32, and future revisions thereto as specified by the Executive Officer. Monitoring results shall be reported at the intervals specified in Monitoring and Reporting Program No. 96-32.

**D. STANDARD PROVISIONS**

1. DUTY TO COMPLY

The discharger must comply with all conditions of this Order. Any noncompliance with this Order constitutes a violation of the California Water Code and is grounds for (a) enforcement action; (b) termination, revocation and reissuance, or modification of this Order; or (c) denial of a report of waste discharge in application for new or revised waste discharge requirements.

2. ENTRY AND INSPECTION

The discharger shall allow the Regional Board, or an authorized representative upon the presentation of credentials and other documents as may be required by law, to:

- (a) Enter upon the discharger's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this Order;
- (b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Order;
- (c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order; and
- (d) Sample or monitor at reasonable times, for the purposes of assuring compliance with this Order or as otherwise authorized by the California Water Code, any substances or parameters at any location.

3. PROPER OPERATION AND MAINTENANCE

The discharger shall, at all times, properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the discharger to achieve compliance with the conditions of this Order. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls including appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of this Order.

4. CIVIL MONETARY REMEDIES

The California Water Code provides that any person who intentionally or negligently violates any waste discharge requirements issued, reissued, or amended by this Regional Board is subject to a civil monetary remedy of up to 20 dollars per gallon of waste discharged or, if a cleanup and abatement order is issued, up to 15,000 dollars per day of violation or some combination thereof.

5. PENALTIES FOR INVESTIGATION, MONITORING OR INSPECTION VIOLATIONS

The California Water Code provides that any person failing or refusing to furnish technical or monitoring program reports, as required under this Order, or falsifying any information provided in the monitoring reports is guilty of a misdemeanor and is subject to a civil liability of up to 5,000 dollars for each day in which the violation occurs.

6. ENDANGERMENT OF HEALTH AND ENVIRONMENT

The discharger shall report any noncompliance which may endanger health or the environment. Any such information shall be provided orally to the Executive Officer within 24 hours from the time the discharger becomes aware of the circumstances. A written submission shall also be provided within five days of the time the discharger becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected; the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance. The Executive

Officer, or an authorized representative, may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

7. CORRECTIVE ACTION

The discharger shall take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with this Order, including such accelerated or additional monitoring as may be necessary to determine the nature and impact of the noncompliance.

8. COMPLIANCE

In an enforcement action, it shall not be a defense for the discharger that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with this Order. Upon reduction, loss, or failure of the treatment facility, the discharger shall, to the extent necessary to maintain compliance with this Order, control production or all discharges, or both, until the facility is restored or an alternative method of treatment is provided. This provision applies for example, when the primary source of power of the treatment facility is failed, reduced, or lost.

9. HAZARDOUS RELEASES

Except for a discharge which is compliance with these waste discharge requirements, any person who, without regard to intent or negligence, causes or permits any hazardous substance or sewage to be discharged in or on any waters of the State, shall as soon as (a) that person has knowledge of the discharge, (b) notification is possible, and (c) notification can be provided without substantially impeding cleanup or other emergency measures, immediately notify the Office of Emergency Services of the discharge in accordance with the spill reporting provision of the State toxic disaster contingency plan adopted pursuant to Article 3.7 (commencing with Section 8574.7) of Chapter 7 of Division 1 of Title 2 of the Government Code, and immediately notify the State Board or the appropriate Regional Board of the discharge. This provision does not require reporting of any discharge of less than a reportable quantity as provided for under subdivisions (f) and (g) of Section 13271 of the Water Code unless the discharger is in violation of a prohibition in the applicable Water Quality Control Plan.

10. PETROLEUM RELEASES

Except for a discharge which is in compliance with these waste discharge requirements, any person who

without regard to intent or negligence, causes or permits any oil or petroleum product to be discharged in or on any waters of the State, or discharged or deposited where it is, or probably will be, discharged in or on any waters of the State, shall, as soon as (a) such person has knowledge of the discharge, (b) notification is possible, and (c) notification can be provided without substantially impeding cleanup or other emergency measures, immediately notify the Office of Emergency Services of the discharge in accordance with the spill reporting provision of the State oil spill contingency plan adopted pursuant to Article 3.5 (commencing with Section 8574.1) of Chapter 7 of Division 1 of Title 2 of the Government Code. This requirement does not require reporting of any discharge of less than 42 gallons unless the discharge is also required to be reported pursuant to Section 311 of the Clean Water Act or the discharge is in violation of a prohibition in the applicable Water Quality Control Plan.

#### **E. REPORTING AND RECORDKEEPING REQUIREMENTS**

##### **1. INITIAL REPORT**

The discharger shall notify the Regional Board Executive Officer of the commencement of all dredging activities by letter prior to starting their project. The notification shall be received by the Regional Board at least three days before any dredging work begins.

##### **2. PERMIT REPOSITORY**

A copy of this Order shall be maintained at the discharger's facility and shall be available to operating personnel at all times.

##### **3. MAINTENANCE OF RECORDS**

The discharger shall retain records of all monitoring information, including all calibration and maintenance records, copies of all reports required by this Order, and records of all data used to complete the application for this Order. Records shall be maintained for a minimum of five years from the date of the sample, measurement, report, or application. This period may be extended during the course of any unresolved litigation regarding this discharge or when requested by the Regional Board Executive Officer.

##### **4. GENERAL REPORTING REQUIREMENT**

The discharger shall furnish to the Executive Officer of this Regional Board, within a reasonable time, any information which the Executive Officer may request to

determine whether cause exists for modifying, revoking and reissuing, or terminating this Order. The discharger shall also furnish to the Executive Officer, upon request, copies of records required to be kept by this Order.

5. PERMIT REVISION

This Order may be modified, revoked and reissued, or terminated for cause including, but not limited to, the following:

- (a) Violation of any terms or conditions of this Order;
- (b) Obtaining this Order by misrepresentation or failure to disclose fully all relevant facts; or
- (c) A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.

The filing of a request by the discharger for the modification, revocation and reissuance, or termination of this Order, or notification of planned changes or anticipated noncompliance does not stay any condition of this Order.

6. CHANGE IN DISCHARGE

The discharger shall file a new Report of Waste Discharge at least 120 days prior to the following:

- (a) Significant change in the treatment or disposal method (e.g., change in the method of treatment which would significantly alter the nature of the waste.)
- (b) Change in the disposal area from that described in the findings of this Order.
- (c) Increase in volume of dredged material beyond that specified in the Executive Officer's authorization letter.
- (d) Other circumstances which result in a material change in character, amount, or location of the waste discharge.
- (e) Any planned change in the regulated facility or activity which may result in noncompliance with this Order.

7. CHANGE IN OWNERSHIP

This Order is not transferrable to any person except



after notice to the Executive Officer. The discharger shall submit this notice in writing at least 30 days in advance of any proposed transfer. The notice must include a written agreement between the existing and new discharger containing a specific date for the transfer of this Order's responsibility and coverage between the current discharger and the new discharger. This agreement shall include an acknowledgement that the existing discharger is liable for violations up to the transfer date and that the new discharger is liable from the transfer date on. The Regional Board may require modification or revocation and reissuance of this Order to change the name of the discharger and incorporate such other requirements as may be necessary under the California Water Code.

8. INCOMPLETE REPORTS

Where the discharger becomes aware that it failed to submit any relevant facts in a Report of Waste Discharge or submitted incorrect information in a Report of Waste Discharge or in any report to the Regional Board, it shall promptly submit such facts or information.

9. REPORT DECLARATION

All applications, reports, or information submitted to the Executive Officer shall be signed and certified as follows:

- (a) The Report of Waste Discharge shall be signed as follows:
  - (1) For a corporation - by a principal executive officer of at least the level of vice-president.
  - (2) For a partnership or sole proprietorship - by a general partner or the proprietor, respectively.
  - (3) For a municipality, state, federal or other public agency - by either a principal executive officer or ranking elected official.
- (b) All other reports required by this Order and other information required by the Executive Officer shall be signed by a person designated in paragraph (a) of this provision, or by a duly authorized representative of that person. An individual is a duly authorized representative only if:
  - (1) The authorization is made in writing by a

person described in paragraph (a) of this provision;

- (2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity; and
  - (3) The written authorization is submitted to the Executive Officer.
- (c) Any person signing a document under this Section shall make the following certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

10. REGIONAL BOARD ADDRESS

The discharger shall submit reports required under this Order, or other information required by the Executive Officer, to:

Executive Officer  
California Regional Water Quality Control Board  
San Diego Region  
9771 Clairemont Mesa Blvd, Suite A  
San Diego, California 92124-1331

**F. NOTIFICATIONS**

1. VESTED RIGHTS

This Order does not convey any property rights of any sort or any exclusive privileges. The requirements prescribed herein do not authorize the commission of any act causing injury to persons or property, nor protect the discharger from liability under federal, state or local laws, nor create a vested right for the discharger to continue the waste discharge.

The Order does not preempt or supersede the authority of other federal, state, or local agencies to prohibit, restrict, or control any maintenance dredge and fill project subject to these waste discharge requirements in any manner subject to their authority.

2. U.S. EPA REVIEW

These requirements have not been officially reviewed by the United States Environmental Protection Agency and are not issued pursuant to Section 402 of the Clean Water Act.

3. SEVERABILITY

The provisions of this Order are severable, and if any provision of this Order, or the application of any provision of this Order to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this Order, shall not be affected thereby.

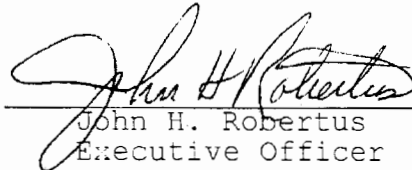
4. ORDER NOS. 75-35, 86-44, 94-124

This Order supersedes Order Nos. 75-35, 86-44, and 94-124. This Order becomes effective on the date of adoption by the Regional Board.

5. WATER QUALITY CERTIFICATION

The adoption of these general waste discharge requirements constitutes a waiver of water quality certification for every project covered by this Order pursuant to Section 401 of the Clean Water Act.

I, John H. Robertus, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Diego Region, on May 9, 1996.

  
John H. Robertus  
Executive Officer

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN DIEGO REGION

MONITORING AND REPORTING PROGRAM NO. 96-32  
FOR  
DREDGE/FILL PROJECTS  
CONDUCTED IN NAVIGABLE WATERS  
WITHIN THE SAN DIEGO REGION

A. MONITORING PROVISIONS

1. Samples and measurements taken as required herein shall be representative of the volume and nature of the monitoring discharge. All samples shall be taken at the monitoring points specified in this Monitoring and Reporting Program and, unless otherwise specified, before the effluent joins or is diluted by any other waste stream, body of water, or substance. Monitoring points shall not be changed without notification to and the approval of the Executive Officer.
2. Monitoring must be conducted according to United States Environmental Protection Agency test procedures approved under Title 40, Code of Federal Regulations (CFR), Part 136, Guidelines Establishing Test Procedures for Analysis of Pollutants Under the Clean Water Act as amended, unless other test procedures have been specified in this Monitoring and Reporting Program.
3. All analyses shall be performed in a laboratory certified to perform such analyses by the California Department of Health Services or a laboratory approved by the Executive Officer.
4. Monitoring results must be reported on discharge monitoring report forms approved by the Executive Officer.
5. If the discharger monitors any pollutant more frequently than required by this Monitoring and Reporting Program, using test procedures approved under 40 CFR, Part 136, or as specified in this Monitoring and Reporting Program, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the discharger's monitoring report. The increase in frequency of monitoring shall also be reported.
6. The discharger shall retain records of all monitoring

information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this Monitoring and Reporting Program, and records of all data used to complete the application for this Order. Records shall be maintained for a minimum of five years from the date of the sample, measurement, report, or application. This period may be extended during the course of any unresolved litigation regarding this discharge or when requested by the Regional Board Executive Officer.

7. Records of monitoring information shall include:
  - (a) The date, exact place, and time of sampling, measurements, or observations;
  - (b) The individual(s) who performed the sampling, measurements, or observations;
  - (c) The date(s) analyses were performed;
  - (d) The individual(s) who performed the analyses;
  - (e) The analytical techniques or method used; and,
  - (f) The results of such analyses.
8. All monitoring instruments and devices which are used by the discharger to fulfill the prescribed monitoring program shall be properly maintained and calibrated as necessary to ensure their continued accuracy.
9. The discharger shall report all instances of noncompliance not reported under Reporting Requirement 96-32 of this Order at the time monitoring reports are submitted. The reports shall contain the information listed in Reporting Requirement 96-32.
10. The monitoring reports shall be signed by an authorized person as required by Reporting Requirement 96-32.
11. A grab sample is an individual sample of at least 100 milliliters collected at randomly selected time over a period not exceeding 15 minutes.

B. INITIAL REPORT

The discharger shall notify the Regional Board by letter prior to starting their project. The notification shall be received by the Regional Board at least three days before any dredging work begins.

C. OPERATIONS MONITORING

The discharger shall submit as part of their monitoring report the following information:

1. Estimates of the daily volume (in cubic yards) of dredge material, the location from which the material was removed, and the location where the material was deposited of.
2. The total volume (in cubic yards) of dredged material removed during the project and the total volume (in cubic yards) of material deposited at each final disposal location.

#### D. VISUAL OBSERVATIONS

During any monitoring conducted pursuant to this monitoring and reporting program, visual observations shall also be made and recorded and submitted as part of the required reports. The following observations shall be made and recorded:

1. speed and direction of the currents;
2. tidal stage;
3. appearance of rubbish or refuse (including cans, bottles, paper, plastic, etc.), garbage, trash or any other solid waste;
4. appearance of oil or other materials of petroleum origin;
5. discoloration and extent of any visible turbidity plume; and,
6. odors.

#### E. RECEIVING WATER MONITORING

##### 1. TURBIDITY

Sampling shall occur at three sampling stations. Station A is at 500 feet updrift of the dredging activities. Station B is inside any visual plume at the dredging site and/or within the silt curtain if possible. Station C is between 0 and 250 feet downdrift outside the silt curtain of the dredging activities and inside any visual plume if possible. At these stations, a Secchi Disc or turbidity meter shall be used each day during dredging activities to sample turbidity. If turbidity at Station C increases more than 20% over the turbidity at Station A, the dredging operations shall be suspended and appropriate measures taken, the Regional Board Executive Officer notified and remedial measures shall be implemented.

##### 2. CHEMICAL ANALYSIS

A minimum of two grab samples of the receiving water at mid-depth shall be collected within the visible turbidity plume at the dredging site and at the near-shore disposal site and

analyzed for the listed constituents. At least one sample shall be at each station identified in the above Item E.1:

CONSTITUENT	UNIT	SAMPLING FREQUENCY	REPORTING FREQUENCY
Total suspended solids	mg/L	monthly	quarterly
hydrogen sulfide	mg/L	monthly	quarterly
polar and nonpolar grease & oil	mg/L	monthly	quarterly

#### F. SUPERNATANT

Whenever dredged materials are being deposited directly onto the beach, samples of supernatant from a loaded barge shall be collected three times a week and analyzed for polar and nonpolar oil and grease and reported quarterly.

#### G. BEACH MONITORING

##### 1. Turbidity

Whenever dredged materials are being deposited directly onto the beach, water samples shall be taken at three sampling stations. Station D is at 3000 feet updrift of the disposal site and 500 feet offshore. Station E at 1500 feet downdrift of the disposal site and 500 feet offshore. Station F is at disposal site and inside any visual plume if possible. At these stations, a Secchi Disc or turbidity meter shall be used weekly during disposal activities to sample turbidity. If turbidity at Station E increases more than 20% over the turbidity at Station D, the disposal operations shall be suspended and appropriate measures taken, the Regional Board Executive Officer notified and remedial measures shall be implemented.

##### 2. Coliform

Whenever dredged materials are being deposited directly onto the beach, three replicate water samples shall be taken once per week within 100 feet down current of each dredged material disposal point(s). If any water sample is found to contain bacteria in levels that exceed Ocean Plan Bacterial Water-Contact Standards, the Department of Health Services of the applicable County shall be notified immediately and the Regional Board shall be notified within 24 hours. Additional daily sampling shall be conducted within the surf zone at 100, 200, 500 and 1,000 feet downcurrent of the dredged material disposal points(s) until the bacterial contamination is noted for three consecutive days.

Monitoring reports for beach sampling, when all samples are in compliance with all water quality standards, shall be submitted quarterly. If any sample is identified as exceeding water quality standards, a report shall be submitted within 15 days after it has been determined that water quality has returned to compliance with applicable standards.

Except as indicated above, when no materials are being disposed directly on the beach, no beach monitoring is required.

#### H. COMPLIANCE STATEMENTS

The discharger will submit statements indicating compliance or noncompliance of the proposed project with the requirements of Order No. 96-32. Compliance statements will be submitted quarterly until project completion.

#### I. FINAL REPORT

The discharger will notify the Regional Board by letter upon completion of the project. Project completion is considered to be the date on which all dredged material has been deposited at its final disposal location.

#### J. REPORTING

Monitoring reports shall be submitted to the Executive Officer in accordance with the following schedule:

<u>Reporting Frequency</u>	<u>Report Period</u>	<u>Report Due</u>
Quarterly	January, February, March	April 30
	April, May, June	July 30
	July, August, September	October 30
	October, November, December	January 30

The discharger shall notify the Executive Officer by letter the date dredging activities subside and the date activity resumes.



Monitoring and Reporting

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Monitoring Reports shall be submitted to:

California Regional Water Quality Control Board  
San Diego Region  
9771 Clairemont Mesa Blvd., Suite A  
San Diego, Ca 92124-1131

Ordered by:



JOHN H. ROBERTS  
Executive Officer  
May 9, 1996

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN DIEGO REGION

ATTACHMENT NO. 1 TO ORDER NO. 96-32  
GENERAL WASTE DISCHARGE REQUIREMENTS  
FOR  
MAINTENANCE DREDGE/FILL PROJECTS  
CONDUCTED IN NAVIGABLE WATERS  
WITHIN THE SAN DIEGO REGION

**COMPREHENSIVE WATER QUALITY CONTROL PLAN, SAN DIEGO REGION**

**Prohibitions**

Selected special considerations are to be applied as discharge regulations over and above constraints established by water quality objectives and effluent limitations. These prohibitions, listed subsequently, are applicable to any person as defined by Section 13050(c) of the California Water Code and to any person who is a citizen, domiciliary, or political agency or entity of California whose activities in California affect the quality of waters in the San Diego Region.

- The discharge of waste to waters of the state in a manner causing, or threatening to cause a condition of pollution, contamination or nuisance as defined in California Water Code Section 13050 is prohibited.
- The discharge of waste to land, except as authorized by waste discharge requirements or the terms described in California Water Code Section 13264 is prohibited.
- The discharge of pollutants or dredged and fill material to waters of the United States except as authorized by an NPDES permit or a dredged or fill material permit (subject to the exemption described in California Water Code §13376) is prohibited.
- The dumping or deposition or discharge of waste directly into waters of the state, or adjacent to such waters in any manner which may permit its being transported into waters, is prohibited unless authorized by the Regional Board.
- The discharge of waste in a manner causing flow, ponding, or surfacing on lands not owned or under the control of the discharger is prohibited, unless the discharge is authorized by the Regional Board.
- Any discharge to a storm water conveyance system that is not composed entirely of "storm water" is prohibited unless authorized by the Regional Board. [The federal regulations, 40 CFR 122.26 (b) (13), define storm water as runoff, snow melt runoff, and surface runoff and drainage. 40 CFR 122.26 (b) (2) defines an illicit discharge as any discharge to a storm water conveyance system that is not composed entirely of storm water except discharges pursuant to a NPDES permit and discharges resulting from fire fighting activities.] [§122.26 amended at 56 FR 56553, November 5, 1991; 57 FR 11412, April 2, 1992].
- The discharge of radioactive wastes amenable to alternative methods of disposal into the waters of the state is prohibited.
- The discharge of any radiological, chemical, or biological warfare agent into waters of the state is prohibited.
- The discharge of waste into a natural or excavated site below historic water levels is prohibited unless the discharge is authorized by the Regional Board.

- The discharge of sand, silt, clay, or other earthen materials from any activity, including land grading and construction, in quantities which cause deleterious bottom deposits, turbidity or discoloration in waters of the state or which unreasonably affect, or threaten to affect, beneficial uses of such waters is prohibited.
- The discharge of untreated sewage from vessels to San Diego Bay is prohibited.
- The discharge of treated sewage from vessels to portions of San Diego Bay that are less than 30 feet deep at mean lower low water (MLLW) is prohibited.
- The discharge of treated sewage from vessels, which do not have a properly functioning US Coast Guard certified Type I or Type II marine sanitation device, to portions of San Diego Bay that are greater than 30 feet deep at mean lower low water (MLLW) is prohibited.

#### Water Quality Objectives

The following objectives apply to all inland surface waters and enclosed bays and estuaries of the Region with the exception of ocean waters.

- **Ammonia**

The discharge of wastes shall not cause concentrations of un-ionized ammonia ( $\text{NH}_3$ ) to exceed 0.025 mg/l (as N) in inland surface waters, enclosed bays and estuaries and coastal lagoons.

- **Bacteria**

In waters designated for contact recreation (REC-1), the fecal coliform concentration based on a minimum of not less than five samples for any 30-day period, shall not exceed a log mean of 200/100 ml, nor shall more than 10 percent of total samples during any 30-day period exceed 400/100 ml.

In waters designated for non-contact recreation (REC-1) and not designated for contact recreation (REC-1), the average fecal coliform concentrations for any 30-day period, shall not exceed 2,000/100 ml nor shall more than 10 percent of samples collected during any 30-day period exceed 4000/100 ml.

In waters where shellfish harvesting for human consumption, commercial or sport purposes is designated (SHELL), the median total coliform concentration throughout the water column for any 30-day period shall not exceed 70/100 ml nor shall more than 10 percent of the samples collected during any 30-day period exceed 230/100 ml for a five-tube decimal dilution test or 330/100 ml when a three-tube decimal dilution test is used.

In bays and estuaries, the most probable number of coliform organisms in the upper 60 feet of the water column shall be less than 1,000 per 100 ml (10 per ml); provided that not more than 20 percent of the samples at any sampling station, in any 30-day period, may exceed 1,000 per 100 ml (10 per ml), and provided further that no single sample when verified by a repeat sample taken within 48 hours shall exceed 10,000 per 100 ml (100 per ml).

In San Diego Bay where bay waters are used for whole fish handling, the density of *E. coli* shall not exceed 7 per ml in more than 20 percent of any 20 daily consecutive samples of bay water.

- **Biostimulatory Substances**

Inland surface waters, bays and estuaries and coastal lagoon waters shall not contain biostimulatory substances in concentrations that promote aquatic growths to the extent that such growths cause nuisance or adversely affect beneficial uses.

- **Color**

Waters shall be free of coloration that causes nuisance or adversely affects beneficial uses.

- Dissolved Oxygen

Dissolved oxygen levels shall not be less than 5.0 mg/l in inland surface waters designated MAR or WARM beneficial uses or less than 6.0 mg/l in waters with designated COLD beneficial uses. The annual mean dissolved oxygen concentration shall not be less than 7mg/l more than 10% of the time.

- Floating Material

Waters shall not contain floating material, including solids, liquids, foams, and scum in concentrations that cause nuisance or adversely affect beneficial uses.

- Hydrogen Ion Concentration

Changes in normal ambient pH levels shall not exceed 0.2 units. In bays and estuaries the pH shall not be depressed below 7.0 nor raised above 8.5.

- Oil and Grease

Waters shall not contain oils, greases, waxes or other materials in concentrations that result in a visible film or coating on the surface of the water or on objects in the water, that cause nuisance, or that otherwise adversely affect beneficial uses.

- Radioactivity

Radionuclides shall not be present in concentrations that are deleterious to human, plant, animal, or aquatic life nor that result in the accumulation of radionuclides in the food web to an extent that presents a hazard to humane, plant, animal or aquatic life.

- Sediment

The suspended sediment load and suspended sediment discharge rate of surface waters shall not be altered in such a manner as to cause nuisance or adversely affect beneficial uses.

- Suspended and settleable Solids

Waters shall not contain suspended and settleable solids in concentrations that cause nuisance or adversely affect beneficial uses.

- Tastes and Odors

Waters shall not contain taste or odor-producing substances in concentrations that cause nuisance or adversely affect beneficial uses.

- Temperature

The natural receiving water temperature of intrastate waters shall not be altered unless it can be demonstrated to the satisfaction of the Regional Board that such alteration in temperature does not adversely affect beneficial uses.

At no time or place shall the temperature of any COLD water be increased more than 5 F above the natural receiving water temperature.

- Toxicity

All waters shall be maintained free of toxic substances in concentrations that are toxic to, or that produce detrimental physiological responses in human, plant, animal, or aquatic life. Compliance with this objective will be determined by use of indicator organisms, analysis of species diversity,

population density, growth anomalies, bioassays of appropriate duration or other appropriate methods as specified by the Regional Board.

- Turbidity

Waters shall be free of changes in turbidity that cause nuisance or adversely affect beneficial uses.

Within San Diego Bay, the transparency of bay waters, insofar as it may be influenced by any controllable factor, either directly or through induced conditions, shall not be less than 8 feet in more than 20 percent of the readings in any zone, as measured by a standard Secchi disk. Wherever the water is less than 10 feet deep, the Secchi disk reading shall not be less than 80 percent of the depth in more than 20 percent of the readings in any zone.

August 23, 1995